



# “I Give and Bequeath” English Probate Records

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## WHAT ARE PROBATE RECORDS AND WHY SHOULD I USE THEM?

Probate records are court records dealing with the distribution of a person's property after death. Information recorded in probate records may include:

- Death date
- Names of heirs
- Family members and guardians
- Relationships
- Residences
- Inventories of the estate (including trade and household goods)
- Names of witnesses

## LIMITATIONS

Fewer than 10% of the English heads of households have probated estates (with or without a will) before 1858. However, as much as one-fourth of the population either left a will or was mentioned in one. Other limitations are:

- The eldest son might be omitted because he received his inheritance according to law.
- Any others who already received their inheritances might not be mentioned.
- The spouse mentioned might not be the parent of children named in the will.
- Relationships mentioned might be inaccurate.

## TYPES OF PROBATE RECORDS

- Original Will
- Registered Copy Will
- Administration (Admon)
- Transcripts
- Bonds
- Estate Duty (Taxation)
- Stamp Duty (Taxation)
- Indexes and Calendars
- Act Books
- Unproven Wills
- Abstracts

## DEFINITIONS OF PROBATE TERMS

**Testator/Testatrix:** Person who made the will

**Intestate:** Person who died without a valid will

**Executor/Executrix:** Person named in will to administer the will of the testator

**Codicil:** An addition to the will after it was first made

**Admon:** (Letters of Administration) Someone who administers to the estate when no will is made and has right to the estate

**Act Book:** Day by day account of probates as they are proved in court

**Inventory:** Listing made of the estate value of the testator's household goods

## PROBATE RECORDS AFTER 1857

A deceased person who owned property may have left a will stating how that property was to be distributed. In 1858, the Principal Probate Registry was created by the government to oversee the settlement of estates. It is still in use today. This probate system consists of two main levels of

jurisdiction: The Principal Court (in London) and 11 district courts (located throughout England and Wales).

Even if your ancestor died before 1858, you may want to check these records. For example, there are at least 84 different John Joneses who died before 1858 whose wills were proved after that year.

## FINDING A WILL AFTER 1857

Indexes to the Principal Probate Registry are online

- FamilySearch Historical Records, 1858-1957
- Ancestry, 1858-1995
- findmypast, 1858-1959

Search beginning in the year your ancestor died and keep searching up to about ten years after.

When you find your ancestor in the index, make note of the **date of probate** and the **court**. The wills are organized by year, then first letter of last name, then month probated, then by court. They are not alphabetical, just grouped by the first letter of the last name. A tool to help you easily find which film you need is <http://www.haine.org.uk/wills/willsearch.php>.

Digital copies of wills can be accessed online at FamilySearch from the catalog if you are at the Family History Library or a family history center. You can order a PDF copy of the will from the UK at [www.gov.uk/search-will-probate](http://www.gov.uk/search-will-probate) for £1.50 per PDF copy. The cost includes all pages of the probate record, no matter the length.

## THE PROBATE PROCESS BEFORE 1858

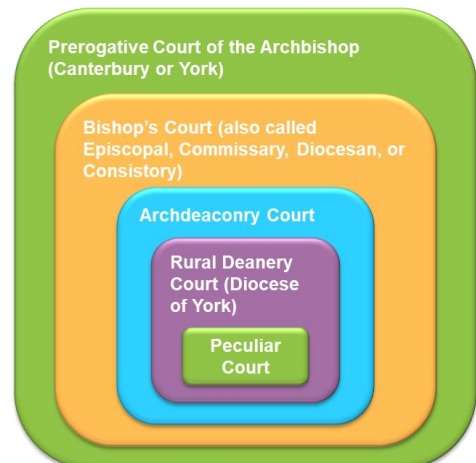
Before the Principal Probate Registry was created, a will was probated in an ecclesiastical court with jurisdiction over where the property was located. There were over 300 ecclesiastical courts within the Church of England. The jurisdictions of the courts were based on the Church's hierarchal order. If the person had property in more than one jurisdiction, a higher court had jurisdiction. Usually the court with primary jurisdiction probated the will, but wealth, status, and convenience could have affected which court was used. If a court's decision was disputed, additional records may be found among later records of the same court or in a court of higher jurisdiction.

***Peculiar courts:*** Peculiar courts, manor courts, or other special courts had limited jurisdiction over small areas (sometimes just one parish). Most of England was not within the jurisdiction of any peculiar court.

***Archdeaconry courts:*** Archdeaconries were divisions of a Church of England diocese, and Archdeaconry courts were common probate jurisdictions in most dioceses. However, the diocese of York was divided into ***rural deaneries***.

***Bishops' courts:*** Also called Episcopal, Commissary, Diocesan, or Consistory courts, bishops' courts were the highest court within each diocese. Courts such as Court of the Dean and Chapter or Court of the Cathedral often acted on the bishop's behalf. Records for these cases are often filed with their own court records.

***Prerogative Courts:*** The prerogative courts of York and Canterbury had jurisdiction when the deceased's property was in more than one diocese. The Prerogative Court of Canterbury (PCC), the highest court of all, was used for wills of testators who died or owned property outside of England,



foreigners who owned property in England, military personnel, persons having property in more than one probate jurisdiction, and often for wealthier individuals and nonconformists. It was the only court during the Interregnum (1649-1660).

**Courts of appeal:** There were three general courts of appeal. Appeals from the Prerogative Court of Canterbury were to the Court of Arches (of Canterbury). Appeals from the Prerogative Court of York were to the Chancery Court of the Archbishop of York, then to the Prerogative Court of Canterbury. Final appeals from all courts were to the Pope until 1533 and then to the Court of Delegates until 1831. After 1831 final appeals were made to the Privy Council. Records of the Court of Arches start in 1660. Many of this court's records are available on microfiche and are indexed in The Index Library. (Family History Library book 942 B4b, v. 85.)

## **FINDING WILLS FROM THE PREROGATIVE COURT OF CANTERBURY**

Wills exist from 1384-1858. Copies of many PCC probate documents are at the Family History Library and some are digitized. Index and images of wills are at Ancestry. An index is online at The National Archives site. You can download PDF copies of original wills from The National Archives for £3.50.

## **FINDING PRE-1858 PROBATE RECORDS**

1. Determine the parish/city and the year in which your ancestor died.
2. Determine the court or courts that had jurisdiction over the parish/city.
3. Search the indexes and records of the court(s) for up to 10 years after your ancestor died.

Online indexes can be found at

- FamilySearch Research Wiki
- findmypast
- Ancestry
- The National Archives (PCC)

4. If the will is not in the primary court of jurisdiction, search the next highest court.

## **DETERMINING THE COURT**

Use one of the following to determine the primary court of jurisdiction.

- FamilySearch Research Wiki
  - Search **[County] Probate**
- English Jurisdictions, 1851 (familysearch.org/map)
- Phillimore's Atlas and Index
- Probate Registers at the Family History Library (also available digitally through the catalog)

## **DEATH OR ESTATE DUTY REGISTERS**

Beginning in 1796, duties (taxes) were required on estates. The amount taxed and who was taxed varied over time. These registers are especially helpful for the counties of Cornwall, Devon and Somerset, since many of the records for the probate courts in those areas were destroyed during World War II. The death duty indexes and registers provide a solution by allowing you to search across many courts at one time.

A register could be annotated for many years, possibly listing date of death of the spouse, marriage and death dates of beneficiaries, births of children or grandchildren born after the duty was paid and have cross references to other entries. Information found on the death duty registers may include:

- Name, address and last occupation of the deceased
- Date of death
- Place and date of probate

- Names of heirs and their relationship to the deceased, even if not mentioned in the will
- Residence or death of heirs (rarely)
- Names, addresses and occupations of the executors
- Details of estates and related matters
- Amount of the duty paid

Death duties were administered through the central court of the Prerogative Court of Canterbury and a group of country courts:

Bath and Wells	Durham	Lichfield	Rochester
Bristol	Ely	Lincoln	Salisbury
Canterbury	Exeter	London	Worcester
Carlisle	Gloucester	Norwich	Winchester
Chester	Hereford	Oxford	York
Chichester	Leicester	Peterborough	

Indexes for the country courts covering 1796-1811, are available online at The National Archives site. Indexes for all courts (country and PCC) from 1796-1903, are at findmypast.

The National Archives has a good guide to Death Duty Registers and how to use the indexes and registers. This guide includes helpful information on how to understand the column headings and abbreviations. <https://www.nationalarchives.gov.uk/help-with-your-research/research-guides/death-duties-1796-1903/>

## **WHERE TO FIND DEATH DUTY REGISTERS**

The Family History Library has digitized the Death Duty Registers from 1796-1857. They are available to view at the Family History Library and family history centers.

The National Archives has 1796-1903. Another system replaced the death duty registry after 1903.